

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CAROLYN BURKS,	No. C 06-5211 CW
Plaintiff,	ORDER DISMISSING
v.	CASE FOR FAILURE TO
JOHN E. POTTER, Postmaster General,	PROSECUTE
et al.,	
Defendants.	

On March 12, 2009, the Court granted Plaintiff Carolyn Burks' motion for an order reinstating this case. The case had previously been dismissed for Plaintiff's failure to serve Defendants in accordance with the Federal Rules of Civil Procedure, even after the Court entered two orders to show cause why the case should not be dismissed for such failure. Plaintiff's counsel submitted a declaration establishing that he was not aware of the orders to show cause or the failure to effect service because these matters were fraudulently concealed from him by an employee of his law firm who was attempting to cover up his own mistake. According to counsel, the employee also concealed the fact that the case had been dismissed, instead leading counsel to believe that the case had been stayed indefinitely.

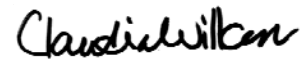
In its order granting Plaintiff's motion, the Court directed

1 Plaintiff to serve Defendants forthwith with a copy of the summons,
2 the complaint and the order of reinstatement. The Court further
3 ordered Plaintiff to file proof of service by March 26, 2009 and
4 advised Plaintiff that failure to file proof of service by this
5 date would result in dismissal for failure to prosecute. Plaintiff
6 did not file proof of service by March 26. Accordingly, this case
7 is dismissed for failure to prosecute.

8 Plaintiff's counsel is directed to serve a copy of this order
9 on Plaintiff herself. Within five days of the date of this order,
10 counsel must file a declaration attesting to and describing such
11 service. Failure to file a declaration within five days will
12 result in further action.

13 IT IS SO ORDERED.

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15 Dated: 3/31/09



16 CLAUDIA WILKEN
17 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

BURKS et al,

Case Number: CV06-05211 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

POTTER et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 31, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Edward A. Olsen
United States Attorney's Office
450 Golden Gate Avenue
Box 36055
San Francisco, CA 94102

Johnnie Lee Taylor
Law Offices of John L. Taylor
507 Polk Street, Suite 400
San Francisco, CA 94102

Dated: March 31, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk